

# COMMITTEE REPORT

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## MR. PRESIDENT:

The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 526, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1       Page 1, between the enacting clause and line 1, begin a new  
2       paragraph and insert:  
3       "SECTION 1. IC 16-28-3-3 IS AMENDED TO READ AS  
4       FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. If a health facility is  
5       in breach of this article or rules adopted under this article by ~~offenses~~  
6       **Level 4 breaches** or patterns of ~~deficiencies~~ **Level 3 breaches**  
7       detrimental to the best interests of the public, the patients, or the health  
8       facility profession, the only type of license that may be issued to the  
9       health facility is a probationary license.  
10       SECTION 2. IC 16-28-5-1 IS AMENDED TO READ AS  
11       FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. The executive board  
12       shall adopt rules under IC 4-22-2 to ~~classify each rule adopted by the~~  
13       ~~executive board to govern a health facility under this article~~ **define**  
14       **each level of breach as provided in subdivisions (1) through (4) of**  
15       **this section. The state survey inspectors shall determine under this**  
16       **article, with the concurrence of the director, the classification of a**  
17       **breach** into one (1) of the following categories:

(1) ~~An offense, which presents a substantial probability that death or a life-threatening condition will result.~~ **Level 4 - immediate jeopardy to patient health or safety (as described in 42 CFR 488.404).**

(2) ~~A deficiency, which presents an immediate or a direct, serious adverse effect on the health, safety, security, rights, or welfare of a patient.~~ **Level 3 - actual harm (as described in 42 CFR 488.404).**

(3) ~~A noncompliance, which presents an indirect threat to the health, safety, security, rights, or welfare of a patient.~~ **Level 2 - no actual harm with potential for more than minimal harm (as described in 42 CFR 488.404).**

(4) ~~A nonconformance, which is any other classified breach not covered by subdivision (1), (2), or (3).~~ **Level 1 - no actual harm with potential for minimal harm (as described in 42 CFR 488.404)."**

Page 1, delete lines 5 through 17, begin a new line block indented and insert:

"(1) ~~For an offense,~~ **a Level 4 breach**, the remedies specified in subsection (b)(1) ~~through (b)(2).~~ **and (b)(3).** The commissioner may also impose the remedy specified in subsection ~~(b)(3).~~ **(b)(4).**

**(2) For a Level 4 breach that is a repeat of the same Level 4 breach within a fifteen (15) month period, the remedies specified in subsection (b)(1) through (b)(2). The commissioner may also impose the remedies specified in subsection (b)(4).**

~~(2) (3)~~ **(3)** ~~For a deficiency,~~ **Level 3 breach**, the remedies specified in subsection (b)(1). The commissioner may also impose the remedies specified in subsection ~~(b)(4).~~ **(b)(5).**

~~(3) (4)~~ **(4)** ~~For a Level 3 breach that is a repeat of the same deficiency~~ **Level 3 breach** within a fifteen (15) month period, the remedies specified in subsection (b)(1) ~~through (b)(2).~~ **and (b)(3).** The commissioner may also impose the remedy specified in subsection ~~(b)(3).~~ **(b)(4).**

~~(4) (5)~~ **(5)** ~~For a noncompliance,~~ **Level 2 breach**, the remedies specified in subsection ~~(b)(5) (b)(7) through (b)(6).~~ **(b)(8).**

~~(5) (6)~~ **(6)** ~~For a breach that is a repeat of the same noncompliance~~ **Level 2 breach** within a fifteen (15) month period, the remedies

specified in subsection (b)(1). The commissioner may also impose the remedies specified in subsection ~~(b)(4)~~: **(b)(6)**.

~~(6)~~ **(7)** For a ~~nonconformance~~, **Level 1 breach**, the remedies specified in subsection ~~(b)(5)~~: **(b)(7)**.

~~(7)~~ For a ~~breach that is a repeat of the same nonconformance within a fifteen (15) month period~~, the remedies specified in subsection ~~(b)(5) through (b)(6)~~:".

Page 2, delete lines 1 through 8.

Page 2, delete lines 11 through 26, begin a new line block indented and insert:

"(1) ~~Issuance of an order for immediate correction of the breach.~~  
**Submission of an acceptable plan of correction by the health facility.**

**(2) Imposition of a fine not to exceed thirty thousand dollars (\$30,000) or suspension of new admissions to the health facility for a period not to exceed forty-five (45) days, or both.**

~~(2)~~ **(3)** Imposition of a fine not to exceed ~~ten~~ **twenty** thousand dollars ~~(\$10,000)~~ **(\$20,000)** or suspension of new admissions to the health facility for a period not to exceed forty-five (45) days, or both.

~~(3)~~ **(4)** Revocation by the director of the health facility's license or issuance of a probationary license.

~~(4)~~ **(5)** Imposition of a fine not to exceed ~~five~~ **ten** thousand dollars ~~(\$5,000)~~ **(\$10,000)** or suspension of new admissions to the health facility for a period not to exceed thirty (30) days, or both.

**(6) Imposition of a fine not to exceed five thousand dollars (\$5,000) or suspension of new admissions to the health facility for a period not to exceed thirty (30) days, or both.**

~~(5)~~ **(7)** A requirement that the health facility comply with any plan of correction approved or directed under section 7 of this chapter.

~~(6)~~ **(8)** If the health facility is found to have a pattern of breach, the commissioner may suspend new admissions to the health facility for a period not to exceed fifteen (15) days or impose a fine not to exceed ~~one~~ **two** thousand dollars ~~(\$1,000)~~; **(\$2,000)**, or both.

**(c) The commissioner may deduct from a fine imposed upon the health facility money expended by the health facility to retain a consultant or other health care professional approved by the**

1 **director to assist the health facility in correcting a breach of this**  
 2 **article or a rule adopted under this article."**

3 Page 2, line 27, strike "(c)" and insert "**(d)**".

4 Page 2, line 28, after "(b)(2)" delete "," and insert "**or (b)(3),**".

5 Page 2, line 31, strike "(d)" and insert "**(e)**".

6 Page 2, line 34, strike "rule" and insert "**breach**".

7 Page 2, line 38, after "(b)(1)" insert ",".

8 Page 2, line 38, strike "through (b)(3)." and insert "**(b)(2), and**  
 9 **(b)(4).**".

10 Page 2, line 40, strike "rule" and insert "**breach**".

11 Page 3, line 3, strike "(b)(4)," and insert "**(b)(5),**".

12 Page 3, delete lines 4 through 10, begin a new paragraph and insert:  
 13 **"(f) This section does not limit the authority of the commissioner**  
 14 **to impose a fine or suspend new admissions to the health facility**  
 15 **for each omission of care or act or repeat of an omission or act.**

16 **(g) The commissioner may renew an order suspending**  
 17 **admissions issued under this section for successive periods.**  
 18 **However, the suspension of new admissions to a health facility**  
 19 **under a renewed order may not exceed ninety (90) consecutive**  
 20 **days.**

21 SECTION 3. IC 16-28-5-11 IS ADDED TO THE INDIANA CODE  
 22 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 23 1, 1999]: **Sec. 11. For a health facility that is certified for**  
 24 **participation in Medicare under 42 U.S.C. 1395 et seq. or Medicaid**  
 25 **under 42 U.S.C. 1396 et seq., the state department may not collect**  
 26 **both a fine under this article and a civil monetary penalty under 42**  
 27 **CFR 488.**

28 SECTION 4. IC 16-28-12-5 IS ADDED TO THE INDIANA CODE  
 29 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 30 1, 1999]: **Sec. 5. (a) The state department shall contract with an**  
 31 **independent organization to operate the informal dispute**  
 32 **resolution process required by 42 CFR 488.331.**

33 **(b) The independent organization contracted by the state**  
 34 **department under subsection (a) shall employ or contract with an**  
 35 **interdisciplinary team consisting of one (1) or more of the**  
 36 **following persons:**

37 **(1) A registered nurse.**

38 **(2) A social worker.**

- 1           **(3) A dietician.**  
 2           **(4) A licensed administrator.**  
 3           **(c) The state department shall assure that each member of the**  
 4           **interdisciplinary team employed or contracted under subsection**  
 5           **(b):**  
 6               **(1) is knowledgeable about health facility operation; and**  
 7               **(2) receives training regarding:**  
 8                   **(A) federal survey and certification; and**  
 9                   **(B) state licensure requirements.".**  
 10          Renumber all SECTIONS consecutively.  
             (Reference is to SB 526 as introduced.)

**and when so amended that said bill do pass.**

Committee Vote: Yeas 8, Nays 0.

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**Senator Miller, Chairperson**